

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

*In re Dealer Management Systems Antitrust
Litigation*, MDL 2817

This document relates to:

ALL ACTIONS

No. 1:18-CV-864

Hon. Robert M. Dow, Jr.

Magistrate Judge Jeffrey T. Gilbert

JOINT PROPOSED AGENDA FOR MAY 15, 2019 STATUS HEARING

Per the Court's February 27, 2019 Order (Dkt. 533), the parties hereby submit a proposed agenda for the Status Hearing currently scheduled for May 15, 2019 at 9:30 a.m. (Dkt. 645).

COMMON ISSUES

1. ***Pending Discovery Motions.*** A number of discovery motions remain pending, a list of which is set forth below for the Court's convenience.

- a. Plaintiffs' Motion to Compel Defendant CDK Global, LLC to Re-Designate Documents from "Highly Confidential" to "Confidential" (Dkt. 415);
- b. Plaintiffs' Motion for Protective Order to Prevent the Deposition of Sandy Schwartz (Dkt. 527);
- c. Plaintiffs' Motion to Compel Production Of Inadequately Logged Documents From Defendants Privilege Logs And To Compel Discovery Regarding Drafting Of Agreements (Dkt. 535);
- d. Defendants' Motion To Compel Plaintiff Authenticom To Produce Third-Party Communications Or, In The Alternative, Submit Such Communications For In Camera Review (Dkt. 539);
- e. CDK's Motion to compel Production of Documents Withheld or Redacted by Plaintiffs Loop, LLC d/b/a/ Autoloop and Cox Automotive, Inc. or, in the Alternative, for an In Camera Inspection of the Challenged Documents (Dkt. 543);
- f. CDK's Motion for Protective Order (re: Dealer "Counterclaim" Discovery) (Dkt. 597);
- g. Plaintiffs' Motion Challenging CDK Global, LLC's March 8, 2019 Clawbacks and to Compel Production of Inadequately Logged Documents from CDK Global, LLC's FTC Privilege Log (Dkt. 633);

- h. Non-Party, InDesign Data, LLC's Motion to Quash Deposition Subpoena or, Alternatively, Motion for Protective Order (N.D. Ill. Case No. 1:19-cv-00419, Dkt. 1);
- i. CDK's Motion to Quash or Modify Subpoena or, In the Alternative, For a Protective Order (AT&T Phone Records) (Dkt. 670)—briefing to be complete on May 10, 2019;
- j. Plaintiffs' Motion to Compel Defendants' OEM Financial Data (Dkt. 663)—briefing to be complete on May 28, 2019; and
- k. Plaintiffs' Motion to Compel Non-Party WHI Solutions, Inc. To Produce Documents In Response To Plaintiffs' Subpoena (SDNY Case No. 1:19-mc-00225, Dkt. 1) (not pending before Judge Gilbert).

2. ***Financial Data “Refresh” Productions.*** The parties have largely agreed on the timing and scope of certain “refresh” productions of financial data in order to bring that data current through the close of fact discovery. The parties will advise the Court if they are able to resolve this issue in advance of the status hearing.

PLAINTIFFS' ADDITIONAL ISSUES

1. ***Pending Motion Regarding Financial Data for Defendants' Data Integration Services to OEMs (Dkt. 663).*** The parties are currently discussing whether further briefing or a decision by this Court will be necessary.

2. ***Plaintiffs Seek Leave to File Subpoenas on Third Parties AT&T, Verizon, and Sprint.*** Plaintiffs intend to seek leave to serve subpoenas on third parties AT&T, Verizon, and Sprint for mobile phone and text message records for communications between Messrs. Gardner (CDK), Workman (CDK), and Schaefer (Reynolds). The parties are currently discussing whether such leave will be opposed.

3. ***Amending Dealership Class Plaintiffs' Complaint.*** Dealership Class Plaintiffs may seek leave to amend their complaint to add allegations regarding OEM data integration charges paid by dealerships.

DEFENDANTS' ADDITIONAL ISSUES

1. ***William Lamm Deposition.*** The parties have agreed on a deposition date for third-party witness William Lamm, who is represented by Plaintiffs' counsel. The parties are still discussing whether Presidio Technology Partners (Mr. Lamm's current employer) will be producing documents in response to Defendants' subpoena.

2. ***Dominion Deposition.*** Third-party witness Dominion Enterprises, Inc. has offered the dates of May 29-31 for a deposition, but the parties are still working toward an agreeable date. Defendants are reviewing Dominion's recent document production and will meet and confer with Dominion regarding any deficiencies.

3. ***Dealership Plaintiffs' Data Productions.*** There are several unresolved issues concerning the Dealership Class Plaintiffs' production of vendor payment data.

4. ***Authenticom Production.*** Defendants believe that there are unresolved issues regarding Authenticom's "PCM Log" production, objections and instructions related to DataVast raised at Authenticom's Fed. R. Civ. P. 30(b)(6) deposition, its assertion of privilege with respect to certain employee video recordings, and a number of questions related to its data productions identified at the Authenticom Fed. R. Civ. P. 30(b)(6) deposition related to its data productions. Authenticom believes that it has addressed these issues appropriately and that discovery is now closed.

5. ***Cox Production.*** Defendants believe that there are certain ongoing disputes related to Cox Automotive's production of certain documents and data as well as the potential resumption of the Cox Automotive Fed. R. Civ. P. 30(b)(6) deposition regarding data (*see* Dkt. 619). Cox Automotive disagrees.

6. ***Case Schedule.*** Defendants believe that it is appropriate to discuss whether the current expert disclosures and remaining case deadlines are feasible.

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The parties promptly will advise the Court if they are able to resolve any of the foregoing issues in advance of the status hearing.

Dated: May 8, 2019

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Britt M. Miller, an attorney, hereby certify that on May 8, 2019, I caused a true and correct copy of the foregoing **JOINT PROPOSED AGENDA FOR MAY 15, 2019 STATUS HEARING** to be filed and served electronically via the court's CM/ECF system. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF System.

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